

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1 - 35 are pending in the application. Currently, claims 23 - 29 stand allowed; claims 1, 2, 9 - 15, 22, and 30 - 35 stand rejected; claims 3, 4, 7, and 8 stand objected to; and claims 5, 6, 16 - 21 stand withdrawn from consideration.

By the present amendment, claim 1 has been amended to further distinguish the claim over the cited and applied prior art; claims 2 and 22 have been amended in light of the amendments to claim 1; claim 3 has been placed into independent form; and claim 10 has been amended to moot the indefiniteness rejection of this claim.

In the office action mailed March 8, 2004, claims 10, 11, 13 - 15, 22, and 30 - 35 were rejected under 35 U.S.C. 112, second paragraph; and claims 1, 2, 9, 12, 15, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by the Menioux reference of record

The foregoing rejections are traversed by the instant response.

With regard to the rejection of claims 1, 2, 9, 12, 15, and 22 over Menioux on anticipation grounds, claim 1 as amended herein is clearly allowable over Menioux. Assuming arguendo that the Examiner's interpretation of Menioux is correct, the primary engine in Menioux does not draw air into an inlet end of the nacelle cowl so that a first portion is diverted into a by-pass passage and a second portion enters the primary engine.

Claims 2, 9, 12, 15, and 22 are allowable over Menioux for the same reasons that claim 1 is allowable as well as on their own accord.

With regard to the rejections under 35 U.S.C. 112, second paragraph, claim 10 has been amended to moot the Examiner's objection. With regard to the rejections of claims 11, 13 - 15, 22 and 30 - 35, the Examiner's position is not well taken. It is well settled that the determination of whether a claim is indefinite under 35 U.S.C. 112, second paragraph, depends on whether those skilled in the art would understand the scope of the claim when the claim is read in light of the specification. *North American Vaccine, Inc. v. American Cyanamid*, 28 USPQ 2d 1333, 1339 (Fed. Cir. 1993). Nowhere in the rejections of claims 11, 13 - 15, 22, and 30 - 35 does the Examiner point out any reason why one skilled in the art would not understand the scope of each of the claims. The Examiner's stated problems with claims 11, 13 and 15 have nothing to do with understanding the scope of the claims. The Examiner's comments all revolve around how the Examiner does not understand how the claimed secondary power unit operates or that certain features are not described in a manner satisfactory to the Examiner. Such inquiries are irrelevant to whether claims comply with section 112, second paragraph. The Examiner continues to miss the point that all that is being set forth in these claims are various types of auxiliary power units. How they operate or what there features are not relevant to what is being claimed in this case and are not relevant to the indefiniteness rejection set out by the Examiner.

With regard to the language of in claim 30, there is no ambiguity about it. When the claim is read in light of the specification and the drawings, one can see and understand that the secondary power unit is located radially inside the annular by-pass passage. One can also see and understand that the secondary power unit is also located besides the engine core. Quite frankly, the Examiner's objection is ambiguous - the

secondary power unit is clearly a separate structural feature of the claimed subject matter. The word "besides" describes its position vis a vis the core. As to the Examiner's comment about the comparison between the claims and the prior art, there has been no prior art cited against claims 30 - 35, thus the comment is merely gratuitous.

Claim 3 has been placed into independent form. Thus, it and the claims which depend from it are now allowable.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

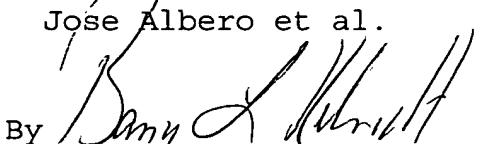
A notice of appeal is enclosed herewith in the event that the Examiner maintains the rejections of record. Also enclosed is a check in the amount of \$330.00 to cover the cost of the Notice of Appeal fee.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, he is hereby invited to contact Applicants' attorney at the telephone number listed below.

Should the Commissioner believe that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

Jose Albero et al.

By 

Barry L. Kelmachter

BACHMAN & LAPOINTE, P.C.

Reg. No. 29,999

Attorney for Applicants

Telephone: (203) 777-6628 ext. 112

Telefax: (203) 865-0297

Date: June 7, 2004

Email: docket@bachlap.com

I, Nicole Motzer, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on June 2, 2004.